

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT LEONARD WOOD,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Civil Nos. 05-CV-2206-L
Criminal Nos. 02-CR-0625-L

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

On August 27, 2007, Petitioner filed a request for a certificate of appealability pursuant to 28 U.S.C. § 2253. The final order challenged by Petitioner is in a proceeding under 28 U.S.C. § 2255.


A certificate of appealability is authorized “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To meet this standard, Petitioner must show that “jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *accord Banks v. Dretke*, ___ U.S. ___, 124 S.Ct. 1256, 1280 (2004). Petitioner does not have to show “that he should prevail on the merits. He has already failed in that endeavor.” *Lambright v. Stewart*, 220 F.3d 1022, 1025 (9th Cir. 2000) (internal quotation omitted).

1 After reviewing the matter, the Court finds that probable cause does not exist for the
2 appeal. The Court also notes that on July 29, 2003, Petitioner filed a prior Notice of Appeal.
3 The Ninth Circuit dismissed Petitioner's appeal upon the determination that he knowingly and
4 voluntarily entered a plea waiver, waiving his right to appeal. Petitioner's Writ of Habeas
5 Corpus was dismissed by this Court for similar reasons. In conclusion, the Petitioner has not
6 made a substantial showing of the denial of a constitutional right.

7 Accordingly, **IT IS HEREBY ORDERED** Petitioner's request for a certificate of
8 appealability is **DENIED**.

9 **IT IS SO ORDERED.**

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11 DATED: January 14, 2008

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13 M. James Lorenz
14 United States District Court Judge
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